

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA
Plaintiff,

v.

1:05-CR-481

ERIC SAMPERISI
Defendant.

THOMAS J. McAVOY

Senior United States District Judge

DECISION and ORDER

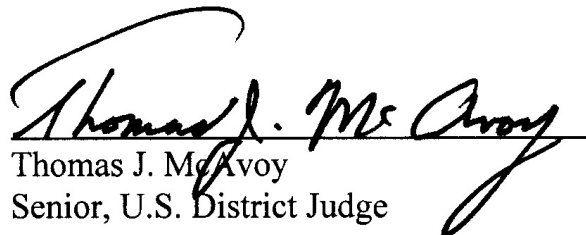
On April 13, 2007, Eric Samperisi requested a copy of court proceedings held on November 13, 2006 regarding his sentencing. Samperisi requests these transcripts for purposes of a potential petition pursuant to 28 U.S.C § 2255. For the following reasons, the request is DENIED.

Under 28 U.S.C. § 753(f), transcripts for purposes of a § 2255 petition will only be provided if “the trial judge or circuit judge certifies that the suit or appeal is not frivolous and that the transcript is needed to decide the issue presented by the suit or appeal.” 28 U.S.C. 753(f) (2006). A “motion for a free transcript pursuant to § 753(f) is not ripe until a § 2255 motion has been filed” and the court is able to review whether the issue presented is frivolous. United States v. Horvath, 157 F.3d 131, 132 (2d Cir. 1998) (denying inmate a free copy of his plea and sentencing hearing transcripts because § 2255 motion had not been filed.). Samperisi has yet to file a § 2255 motion challenging

his conviction or sentence and, therefore, his request is not ripe.

IT IS SO ORDERED.

Dated: April 27, 2007


Thomas J. McAvoy
Senior, U.S. District Judge
